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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,513	04/30/2001	Peter Lenehan	A1696	2082
7590	11/26/2004			
Stephen R Seccombe Sheldon & Mak 225 South Lake Avenue 9th Floor Pasadena, CA 91101			EXAMINER ALEXANDER, LYLE	
			ART UNIT 1743	PAPER NUMBER
DATE MAILED: 11/26/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/845,513

Applicant(s)

LENEHAN, PETER

Examiner

Lyle A Alexander

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 4-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Anderson, Bienkowski, Luchaco or Ezoe et al.

Anderson (USP 5,083,427) teaches a method for detecting and compensating for chemical aging of system and adjusting the A/F ratio as a result of the aging to minimize noxious emissions. A closed loop feed back system is created with the engine, universal exhaust gas oxygen (UEGO hereafter) sensor and a catalyst. Column 2 lines 32+ define the feed back control loop as means to measure a controlled quantity of exhaust and compared it to a standard representing the desired performance. Column 4 lines 3+ teach the A/F feed back loop adjusts the A/F ratio over time to compensate for sensor aging. This has been read on the claimed closed loop oxygen sensor monitoring and test modes. Column 6 lines 1+ teach the system is integral with the automobile and has been read on the claimed portability. With respect to the claimed operating conditions of voltage, etc. these appear to be directed to method of intended use of the apparatus that is of no patentable moment as long as the taught apparatus has the ability to achieve these conditions. The Office maintains, the cited art would have been expected to be capable of achieving the claimed operating conditions of voltages, etc.

Bienkowski (USP 4,622,844) teaches a monitor (26) the check the operation of an oxygen sensor (20) in an automobile. A comparator (70) compares the output signal with a reference signal. When the output signal is equal to the reference signal regulator (64) activates a diode (40) the inform the operator the sensor (20) is operating acceptable. This has been read on the claimed closed loop oxygen sensor having monitoring/test modes and a display. Column 1 lines 40+ teach the monitor is portable and is used on vehicles to monitor the performance of the oxygen sensor that has been read on the claimed portability. With respect to the claimed operating conditions of voltage, etc. these appear to be directed to method of intended use of the apparatus that is of no patentable moment as long as the taught apparatus has the ability to achieve these conditions. The Office maintains, the cited art would have been expected to be capable of achieving the claimed operating conditions of voltages, etc.

Luchaco teaches a sensor for determining the functionality of an oxygen sensor connected to an internal combustion engine for the purpose of controlling the fuel injection to minimize noxious emissions. The system comprises an exhaust sensor(10), a transition detector(12), a multivibrator(14) a transitional interval indicator(16), a test circuit control means(18), a fuel control unit(20), an injection control means(22), an indicator level sensor(24) and a failure latching means(26). The test circuit is responsive to at least one predetermined engine operating condition. This has been read on the claimed closed loop oxygen sensor monitoring and test modes. With respect to the claimed operating conditions of voltage, etc. these appear to be directed to method of intended use of the apparatus that is of no patentable moment as long as the taught apparatus has the ability to achieve these conditions. The Office maintains, the cited art would have been expected to be capable of achieving the claimed operating conditions of voltages, etc.

Ezoe et al. teach a diagnostic monitoring device that includes a detection of engine parameters feed back control signal detector, a logic circuit and a display mean. The device determines the performance of an oxygen sensor using a feed back control loop. Visual indicators display normal or abnormal condition of the oxygen sensor. This has been read on the claimed closed loop oxygen sensor monitoring and test

Art Unit: 1743

modes. With respect to the claimed operating conditions of voltage, etc. these appear to be directed to method of intended use of the apparatus that is of no patentable moment as long as the taught apparatus has the ability to achieve these conditions. The Office maintains, the cited art would have been expected to be capable of achieving the claimed operating conditions of voltages, etc.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson, Bienkowski, Luchaco or Ezoe et al. alone or in view of Zaleski .

See Anderson, Bienkowski, Luchaco and Ezoe et al. supra.
These references are silent to inclusion of a keypad.

Keypads for electronic devices are ubiquitous and notoriously well known in the art. It appears the prior art devices would have to have keypads to navigate between various the various functions/modes taught by the cited prior art. One having ordinary skill in the art would have expected the taught devices to be associated with a keypad to accomplish the various taught functions/modes. The reason for the absence of such a description is the keypad is so well known no mention was needed.

Zaleski teaches an interactive automotive testing system that includes a portable keypad. The keypad is advantageous because it permits the operator to easily access other programs and manipulation of the data.

It would have been within the skill of the art to modify Anderson, Bienkowski, Luchaco or Ezoe et al. and include a keypad to gain the above advantages.

Response to Arguments

Applicant's arguments filed 5/12/04 have been fully considered but they are not persuasive.

Applicant traverses the rejection over Anderson on the basis Anderson fails to teach testing of the closed loop system. These remarks are directed to a method of use which is of no patentable moment with respect to the pending apparatus claims.

Further, Applicant states Anderson fails to teach "empirically determining ...". In the

Art Unit: 1743

absence of defining what limitations are intended by "empirically", the Office maintains Anderson has been properly read on the instant claims.

Applicant traverses Bienkowski on the basis it fails to give information on the sensor operation. The Office does not agree and maintains the parameter measured is directly related to oxygen content of the exhaust gas.

Applicant traverses Luchaco on the basis this reference only detect catastrophic failure and not the range of the instant invention. These remarks are not commensurate in scope with the instant claims that are not directed to any range.

Applicant traverses Ezoc et al. on the basis this reference only operates in a specific operating range and only detects catastrophic failures. These remarks are not commensurate in scope with the instant claims that are not directed to any specific operating range or level of failure.

Applicant further traverse the references stating the prior art does not perform the same method of analysis as the claimed apparatus. The Office maintains the cited prior art teaches all of the claimed elements and has been properly applied. The method of intended use of an apparatus is of no patentable moment.

Applicant traverses the 35 USC 103 rejection on the basis claims 1-2 require different method of operation than taught by the cited prior art. The Office maintains the cited prior art teaches all of the claimed elements and has been properly applied. The method of intended use of an apparatus is of no patentable moment.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1743

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lyle A Alexander
Primary Examiner
Art Unit 1743

A handwritten signature in black ink, appearing to be 'Lyle A. Alexander', written in a cursive style.